basic of skills. Simply put, this is a program that fills a vital place in the spectrum of a child's literary education and with over 2,400 voluntary therapy teams around the world, it would be an understatement to say this program has not touched and improved thousands of young lives.

Over the span of the previous 10 years, this is an achievement that is virtually impossible to measure, yet today, as small token of my own personal appreciation, I submit a resolution that would designate Saturday, November 14, 2009, as National Reading Education Assistance Dogs Day. Once agreed to, this resolution will recognize the thousands of lives that have been touched as a direct result of this initiative. I am grateful to be the sponsor of a resolution recognizing such an accomplishment and am joined by Senators BINGAMAN, MCCASKILL, COCHRAN, and RISCH in this effort. I commend Intermountain Therapy Animals, a nonprofit organization based in Utah, for first launching this program just ten short years ago. Therefore, in addition to the numerous news stories, television programs, and awards highlighting the value and benefit of this program, I urge my Senate colleagues and every American to join me in recognizing 10 successful years of the R.E.A.D. program with hopes of many more years of success to come.

SENATE RESOLUTION 339—TO EXPRESS THE SENSE OF THE SENATE IN SUPPORT OF PERMITTING THE TELEVISING OF SUPREME COURT PROCEEDINGS

Mr. SPECTER (for himself, Mr. KAUFMAN, Mr. CORNYN, Mr. FEINGOLD, Mr. DURBIN, Ms. KLOBUCHAR, Mr. WHITEHOUSE, and Mr. SCHUMER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 339

Resolved,

SECTION 1. SENSE OF THE SENATE.

It is the sense of the Senate that the Supreme Court should permit live television coverage of all open sessions of the Court unless the Court decides, by a vote of the majority of justices, that allowing such coverage in a particular case would constitute a violation of the due process rights of 1 or more of the parties before the Court.

Mr. SPECTER. Mr. President, I have sought recognition to introduce a sense-of-the-Senate resolution urging the Supreme Court to permit live television coverage of its open proceedings. This is different from previous legislation which I have introduced which would require the Court to permit live television coverage.

I offer this resolution on behalf of Senator CORNYN, Senator KAUFMAN, Senator FEINGOLD, Senator DURBIN, Senator KLOBUCHAR, Senator WHITEHOUSE, and Senator SCHUMER.

The previous bills, which would have required the Supreme Court to open its proceedings to live television coverage, were voted out of the Judiciary Committee in the 109th Congress by a vote of 12 to 6 and the 110th Congress by a vote of 11 to 8.

The basis for the legislative action is on the recognized authority of Congress to establish administrative matters for the Court. For example, the Congress determines how many Justices there will be—nine; the Congress determines how many Justices are required for a quorum—six; the Congress determines that the Court will begin its operation on the first day of October; the Congress has set time limits.

The shift in the resolution for urging the Court is to take a milder approach to avoid a confrontation and to avoid a possible constitutional clash on the separation of powers.

There is no doubt that the Court would have the last word if the Congress required live television coverage. And, as I say, there are analogous administrative matters which the Congress does control. But as a first step, today the resolution urges the Court to open its proceedings for live television coverage.

The thrust of this resolution is that the Court should be televised, just as the Senate is televised, just as the House is televised, to familiarize the American people with what the Court does. The average person knows very little about what the Court does.

The Supreme Court itself has held that newspapers have a right to be in a courtroom. In an electronic age, television and radio ought to have the same standing.

The importance of the Court is seen in the scope of the cases which they decide and the kinds of cases which they do not decide. For example, the Court makes a determination on life, a woman's right to choose, makes a determination on the application of the death penalty, a determination on civil rights, on Guantanamo, on wireless wiretapping, on congressional authority, on Executive authority.

The Court is the final word since 1803, in the case of Marbury v. Madison, when the Court decided the Court would be the final word. That was the statement of Chief Justice Marshall, and it has stood for the life of our country. I believe it is a sound judgment for the Supreme Court to have the final word. But if the Framers were to rewrite the Constitution, I think the Court would now be article I instead of the Congress being article I, and the executive branch—the President—being article II.

It is also important to note what the Court does not decide. The Court declined to hear the terrorist surveillance program. That warrantless wiretap program was found unconstitutional by the Federal court in Detroit. It was reversed by the Sixth Circuit Court of Appeals on standing ground, with a very vigorous and better reasoned dissent. Standing is a very flexible doctrine and usually made when the Court simply doesn't want to take up the issue. But the terrorist surveillance program presented the sharpest conflict—perhaps the sharpest conflict between congressional authority, under article I, with the Foreign Intelligence Surveillance Act establishing the exclusive way to conduct wiretaps and the President's article II powers as Commander in Chief to conduct warrantless wiretaps.

The Supreme Court denied hearing the case of the survivors of victims of 9/11 against Saudi Arabia, even though congressional mandate is clear that sovereign immunity does not apply to foreign government officials.

Just in the past few years, the Supreme Court has decided cases of enormous importance. A few illustrate the proposition: The Court did decide cutting-edge issues on whether local school districts may fulfill the promise of Brown v. Board of Education by taking voluntary remedial steps to maintain integrated schools; whether public universities may consider race when evaluating applicants for admission in order to ensure diversity within their student bodies; whether citizens have a constitutional right to own guns; whether States may exercise the power of eminent domain to take a personal residence in order to make room for commercial development.

The Court has also declined to hear cases involving splits—that is, differences of judgment—between different courts of appeals. It is not an effective administration of the judicial system if the case may be decided differently depending on whether a person litigates in the First Circuit or in the Eleventh Circuit and then the district courts, where the circuit has not ruled, speculate as to what the court of appeals would have decided.

We had a confirmation hearing yesterday with Judge Vanaskie of the Middle District of Pennsylvania. I asked him if he had seen situations where there were circuit splits, but your circuit hasn't decided, and how do you handle that case. Judge Vanaskie pointed out that was very problematic. There are major matters where the Supreme Court has left these circuit splits standing. For example, whether jurors may consult the Bible during their deliberations in a criminal case, whether a civil lawsuit must be dismissed predicated on state secret, whether the spouse of a U.S. citizen remains eligible for an immigration visa after the citizen dies, whether an employee who alleges that he or she was unlawfully discriminated against for claiming benefits or exercising other rights under an employer-sponsored health care or pension plan, or when does a collective bargaining agreement confer on retirees the right to lifetime health care benefits? may a Federal court toll the statute of limitations in a suit brought under the Federal Tort Claims Act?

These are illustrative of very important decisions which the Supreme Court does not decide. Congress can't

tell the Supreme Court what to decide, but Congress may mandate the Court's jurisdiction. If this were in the public view, if the Court were accountable for not handling such cases, I think the Court might well take a different view.

It is not as if the Court is too busy to hear these cases. Take a brief survey of the Court's docket. In 1886, there were 1,396 cases on the Supreme Court docket. It decided 451. In 1926, there were 223 signed opinions. So it was down from 451 in 1886 to 223 in 1926. Then by 1987, it was down to 146. In 2007, the Court heard argument in only 75 cases and issued only 67 signed opinions. So it is perfectly clear that the Court's docket, with the four clerks—which each one of the Supreme Court Justices has—could well accommodate a more vigorous workload.

In the written statement that I will include when I finish these extemporaneous remarks, I have cited several recent cases where the Court has not followed well-established precedent. Well, they have the authority to overrule their own precedents, but it is something the public ought to have an idea on and an understanding of.

I think this is a particularly good time for the Court to consider televising itself under the resolution urging them to be televised since Justice Souter recently left the Court. Justice Souter made the famous statement that if the Supreme Court were to be televised, the cameras would roll in over his dead body. The members of the Supreme Court are very concerned about what their fellows think, and it may well have been that in light of a strenuous objection by Justice Souter, when he was on the Court, that would have tipped the scales. But listen to what the Justices have had to say on the issue of televising the Supreme Court.

I have made it a practice to question the nominees for the Supreme Court to get their views on television. Justice Paul Stevens said: Literally hundreds of people have stood in line for hours in order to hear oral argument only to be denied admission because the courtroom was filled.

The practice is, if you can get in at all, you stay for 3 minutes and then you are ushered out to let other people in because it is a small chamber.

Justice John Paul Stevens said: Television in the Court is worth a try.

Justice Ruth Bader Ginsburg said: I don't see any problem with having proceedings televised. I think it would be good for the public.

Justice Breyer said—at a time when he was chief judge of the First Circuit—I voted in the judicial conference in favor of experimenting with television in the courtroom. The judicial conference made an analysis of television—made a favorable recommendation—and some circuit courts and some lower courts have been televised.

Justice Sotomayor, in her recent confirmation hearing, said, referring to her experience with cameras in the courtroom, that the experience has ''generally been positive, and I would certainly recount that,'' referring to her colleagues on the Supreme Court.

Justice Alito said, in the Third Circuit, there was a debate and he argued we should do it; that is, televise it. He said: I would keep an open mind on the subject with respect to the Supreme Court.

The fact is the Justices frequently appear on television on their own. For example, Chief Justice Roberts and Justice Stevens appeared on interviews on ABC's ''Prime Time.'' Justice Ginsburg has appeared on CBS News. Justice Breyer has been on ''FOX News Sunday.'' Justices Scalia and Thomas have appeared on CBS's ''60 Minutes.'' All the Justices appeared for interviews that C–SPAN recently aired during its ''Supreme Court Week.''

Public opinion polls are strongly in favor of having the Supreme Court televised. There have been numerous editorials in support, and recently the Supreme Court of the United Kingdom opened its proceedings for television.

That is a very brief statement of a more expansive statement, which I have prepared, and I think the reasons for opening the Court are overwhelming. In a Democratic society, there should be transparency at all levels of government. The judicial independence of the Supreme Court is of vital importance to be maintained, and they have life tenure, but there is no reason why the American people should not understand what they are doing.

The American people should understand that when they take a case such as Bush v. Gore, where there is a challenge on the counting of the votes in Florida and where Justice Scalia says there would be irreparable harm in allowing the votes in Florida to be counted because it might undermine the legitimacy of the new administration, the American people ought to have maximum access to understand what the Court is doing. The American people ought to have maximum access to know that the Supreme Court of the United States declined to hear a decision on whether the President had authority to conduct warrantless wiretaps. The American people ought to know that all these circuit splits remain unresolved at a time when the workload and the agenda and the docket of the Supreme Court has declined enormously.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a ''Dear Colleague'' letter signed by Senator CORNYN and myself.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
WASHINGTON, DC,
November 5, 2009.

DEAR COLLEAGUE: We write to ask for your co-sponsorship on a Sense of the Senate Resolution which urges the Supreme Court to permit live television coverage of its open proceedings. This would provide a modest level of transparency and accountability to the Supreme Court whose members enjoy life tenure and decide so many cutting-edge issues which border on making the law rather than interpreting the law. There is little public understanding about the Supreme Court's role even though it decides major issues such as a woman's right to choose, the death penalty, civil rights, 2nd Amendment gun rights, and the scope of Congress's Article I power and the President's Article II power.

The Court declines to hear many important cases where conflicting decisions are rendered by different Circuit Courts of Appeals. That results in different treatment for different litigants depending on what Circuit their case is brought. It leaves uncertainty in other Circuits since there is a question about which Circuit precedent should be followed.

The Court has time to resolve Circuit splits and hear many other important cases which it declines since its docket is so light compared to prior years. In 1886, the Supreme Court decided 451 of the 1,309 cases on its docket. In 1926, the Court issued 223 signed opinions. In the first year of the Rehnquist Court, 1987, the Court issued 146 opinions. During the 2007 term, the Court held argument in 75 cases and issued 67 signed opinions.

Few Americans have any real opportunity to observe its proceedings. Most who visit the Court for an oral argument will be allowed only a three-minute seating, if they are seated at all. Recently, the UK's highest court decided to allow TV cameras into its courtroom. A recent C–SPAN poll reveals that two-thirds of Americans support televising the Court's proceedings.

This Sense of the Senate Resolution differs from previous legislative proposals in urging rather than requiring the Supreme Court to permit TV coverage. While there is substantial authority for Congress to require such coverage based on analogous administrative matters, we believe the milder approach should be followed first which may draw a favorable response and would avoid any possible confrontation.

If you have any questions or wish to cosponsor this Resolution, please contact the undersigned or have your staff contact Matthew Wiener (extension 4–6598) or Matthew Johnson (extension 4–7840).

Sincerely,

ARLEN SPECTER,
JOHN CORNYN.

Mr. SPECTER. Mr. President, I ask unanimous consent to have printed in the RECORD an extensive floor statement and that the CONGRESSIONAL RECORD contain my introduction of the floor statement. Frequently, when the floor statement occurs right after the oral extemporaneous comments, the reader may wonder why the speaker is repeating himself on so many of the same points.

So, I would like to have the full text as to what I am saying now appear in the CONGRESSIONAL RECORD so that it is understandable why the long text appears after so much of what has already been said.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Mr. President, I have sought recognition to introduce a sense-of-the-Senate resolution urging the Supreme Court to permit television coverage of its open proceedings.

I have previously introduced legislation on the subject. In the 109th Congress, I introduced S. 1768, on behalf of myself and Senators Allen, Cornyn, Durbin, Feingold,

Grassley, Leahy, and Schumer. It would have required the Court to permit television coverage of its proceedings. On March 30, 2006, the Committee on the Judiciary favorably reported S. 1768 by a vote of 12 to 6. In the 110th Congress, I introduced an identical bill, S. 344, on behalf of myself and Senators Comyn, Durbin, Feingold, Grassley and Schumer. On September 8, 2008, the Committee favorably reported the bill by a vote of 11 to 8. Early in this Congress I again introduced an identical bill, S. 446, this time on behalf of myself and Senators Cornyn, Durbin, Feingold, Grassley, Kaufman, Klobuchar, and Schumer.

The resolution takes a more restrained and modest approach than does S. 446 and its predecessors. It would do no more than ''urge'' the Court to allow the television coverage of its open proceedings (unless Court decides that television coverage would violate a litigant's due-process rights, which is unlikely).

I urge the Senate to pass this non-binding resolution rather than taking action on S. 446 at this time. My reason is not that S. 446 may be unconstitutional. It is not. Congress' well-founded authority to regulate various aspects of the Court's activities—to fix the number of Justices who sit on the Court (nine) and constitute a quorum (six), to set the beginning of the Court's term as the first Monday in October, and to establish the contours of its appellate jurisdiction—would sustain S. 446 against a constitutional challenge. Rather, I have four prudential reasons for proceeding with a non-binding resolution at this time:

First, the Court's most outspoken critic of television coverage, Justice Souter, has retired. Justice Souter once said that the ''day you see a camera come into our courtroom, it's going to roll over my dead body.'' Several Justices have indicated their reluctance to permit television coverage in the face of opposition by a colleague. Justice Souter's departure may lead his colleagues to revisit the issue. His replacement, Justice Sotomayor, testified during her confirmation hearings that she had favorable experiences with television coverage while sitting on the court of appeals and that, if confirmed, she would share her experiences with her new colleagues. Some commentators have raised the possibility that Justice Sotomayor will help convince her reluctant colleagues that the time for television coverage has come. (E.g., Editorial, ''Cameras in the Court,'' USA Today, July 13, 2009; Editorial, ''Camera shy justice: The Supreme Court should be televised,'' Pittsburgh Post Gazette, July 7, 2009; Editorial, ''Supreme Court TV,'' Los Angeles Times, June 11, 2009.) No one knows, of course, what Justice Sotomayor will do. But we should at least give the newly constituted Court some reasonable period of time to consider the issue.

Second, a non-binding resolution is likely to draw more support among Senators than a statutory mandate, and it need not be passed by the House or signed by the President. There is no reason to enact a law if a resolution will do.

Third, the Court may receive a non-binding resolution more favorably than a statutory mandate. The Court may perceive a mandate as an affront to its constitutional autonomy as a separate branch of government. Justice Kennedy suggested as much during testimony before a Congressional committee. It may even decide to ignore a mandate on the ground that it violates the Constitution's scheme of separation of powers. We need not provoke what might be an unnecessary constitutional challenge.

Fourth, the newly established Supreme Court of the United Kingdom has just decided to allow cameras in its courtroom. A press release announcing the Court's opening reports that ''proceedings will be routinely filmed and made available to broadcasters.'' (Supreme Court of the United Kingdom, Press Release, Oct. 1, 2009.) The press release cites the need for ''transparen[cy]'' and the ''crucial role'' that television can play in ''letting the public see how justice is done'' and ''increase[ing] awareness of the UK's legal system and the impact the law has on people's lives.'' (Ibid.) When the Court held its opening session just a few weeks ago, TV cameras sat ''discretely'' in the corners of the courtroom, according to the BBC. (BBC News, ''Supreme Court hears first appeal,'' http://news.bbc.co.uk/2/hi/uk__news/8289949 .stm.) Hopefully the experience of the United Kingdom's Supreme Court with television coverage will encourage our Supreme Court to follow suit.

My extensive floor statements of January 29, 2007, introducing S. 246, and February 13, 2009, introducing S. 446, set forth compelling reasons for allowing television coverage of the Supreme Court's open proceedings and also explained why S. 445 is constitutional. (Cong. Record, Jan. 29, 2007, S831–34; Cong. Record, Feb. 13, 2009, S2332–36.) I laid out those reasons again on August 5, 2009, when I commented on the state of the Court during the floor debate on now-Justice Sotomayor's nomination. (Cong. Record, Aug. 5, 2009, S880006.) This statement summarizes the key points of and supplements my earlier statements.

My main point was this: The American people have the right to observe the Court's proceedings. But few Americans have any meaningful opportunity to do so. There are well less than a hundred oral arguments per year. Even those who are able to visit the Court are not likely to see an argument in full. Most will be given just three minutes to watch before they are shuffled out to make room for others. In high-profile cases, most visitors will be denied even a three-minute seating. There are not nearly enough seats to accommodate the demand. Those who wish to follow the Court's proceedings must content themselves with reading the voluminous transcripts or listening to audiotapes released at the end of the Court's term. It should come as no surprise that, according to a recent C-SPAN poll, nearly two-third of Americans favor televising the Court's proceedings.

The Court decides too many cutting-edge questions of monumental importance to the American people—not just, as Justice Scalia once suggested in opposing television coverage, disputes between litigants—to deny them a meaningful opportunity to observe its proceedings. Consider just some of the issues the Court has decided in recent years: whether local school districts may fulfill the promise of Brown v. Board of Education by taking voluntary remedial steps to maintain integrated schools (Parents Involved in Community Schools v. Seattle School District No. 1, 551 U.S. 701 (2007)); whether public universities may consider race when evaluating applicants for admission in order to ensure diversity within their student bodies (Grutter v. Bollinger, 539 U.S. 306 (2003), and Gratz v. Bollinger, 539 U.S. 2344 (2003)); whether citizens have a constitutional right to own guns (District of Columbia v. Heller, 128 S. Ct. 2783 (2008)); and whether states may exercise the power of eminent domain to take a personal residence in order to make room for a commercial development (Kelo v. City of New London, 545 U.S. 469 (2005)).

And in 2000, of course, the Supreme Court decided what was perhaps the most important—and certainly the most controversial—question of all: who the next president of the United States would be (Bush v. Gore, 531 U.S. 98 (2000)). Can anyone seriously contend that the American people were not entitled to watch the oral argument in the case that ultimately decided the Presidency? Or that reading a transcript or listening to an audio was an adequate substitute for watching the oral argument?

Trends over the last few years show that the need for public scrutiny of the Court's work, which only television coverage can adequately provide, is now more important than ever. None is more significant than the Court's declining workload and willingness to leave important issues and circuit splits unresolved.

The Court's workload has steadily declined. In 1870, the Court decided 280 of the 636 cases on its docket; in 1880, 365 of the 1,202 cases on its docket; and in 1886, 451 of the 1,396 cases on its docket. (E.g., Edward A. Hartnett, ''Questioning Certiorari: Some Reflects on Seventy Five Years After the Judges Bill,'' 100 Colum. L. Rev. 1643, 1650 (2006).) In 1926, the year Congress gave the Court nearly complete control of its docket by passing the Judiciary Act of 1925, the Court issued 223 signed opinions. The Court's output has declined significantly ever since. In the first year of the Rehnquist Court, the Court issued 146 opinions; in its last year, the Court issued only 74. (E.g., Kenneth W. Starr, ''The Supreme Court and Its Shrinking Docket: The Ghost of William Howard Taft,'' 90 Minnesota Law Review 1363, 1367–68 (2006).)

Chief Justice Rehnquist's successor, John Roberts, said during his confirmation hearing that the Court could and should take more cases. But it has not done so. During the 2005 Term, it heard argument in 87 cases, and issued 69 signed opinions; during the 2006 Term, it heard argument in 78 cases and issued 68 signed opinions; and during the 2007 Term, it heard argument in 75 cases and issued 67 signed opinions. The numbers were much the same during the recently concluded 2008 Term: The Court heard argument in 78 cases and issued 75 signed opinions. A recent article in the Duke Law Journal notes that ''[e]ven though it possess resources unimaginable to its predecessors, including . . . a bevy of talented clerks, the Supreme Court decides only a trickle of cases.'' The article goes on to observe that the ''most striking feature of contemporary Supreme Court jurisprudence is how little of it there is.'' (Tracey E. George & Christopher Guthrie, ''Remaking the United States Supreme Court in the Courts' of Appeals Image,'' 58 Duke Law Journal 1439, 1441–42 (2009).)

As Kenneth Starr has observed, Congress gave the Supreme Court control over what cases it hears so it can focus on ''two broad objectives: (i) to resolve important questions of law and (ii) to maintain uniformity in federal law.'' (Starr, supra, at 1364.) It is clear that the Court has failed to meet either objective and that only by putting its ''shoulder to the wheel and working] harder,'' to quote Mr. Starr, can it ever hope to do so. (Id. at 1385.)

The Court continues to leave important issues unresolved. Recently it even refused to decide the constitutionality of the Bush Administration's Terrorist Surveillance Program—commonly referred to as the ''warrantless wiretapping program.'' This program, which began soon after the 9–11 attacks, operated in secret until The New York Times exposed it in 2005. Well-deserved public condemnation followed its exposure. In 2006, a federal district court declared the program unconstitutional. A divided court of appeals reversed on the ground that the plaintiffs lacked standing to bring suit, thereby leaving the merits unaddressed. In 2008, the plaintiffs asked the Supreme Court to hear case, but it declined. This year I introduced legislation (S. 877) to require the

Court to exercise jurisdiction over appeals challenging the constitutionality of the Program.

More recently, the Court refused to decide whether the Foreign Sovereign Immunities Act shields Saudi Arabia and its officials from damages suits arising from their apparent complicity in the 9–11 terrorist attacks. Last year the United States Court of Appeals for the Second Circuit ruled (incorrectly, in my view) that the Act immunizes them from suit. The victims petitioned the Court for certiorari. In its certiorari-stage brief, the Solicitor General conceded that the Second Circuit had misinterpreted the Act. But late last year the Court denied the petition without dissent and, as usual, without explanation. (In re Terrorist Attacks on September 11, 2001 (No. 08–640).) The result will be to deny legal redress to thousands of 9–11's victims.

No less important, the Court also continues to leave too many circuit splits unresolved. The article in the Duke Law Journal I cited a moment ago notes that the Roberts Court ''is unable to address even half'' of the circuit splits ''identified by litigants.'' (George and Guthrie, supra, at 1449.) Mr. Starr notes that the ''Supreme Court by and large does not even pretend to maintain the uniformity of federal law.'' (Starr, supra, at 1364.) Among the questions on which the circuits have recently split are: May jurors consult the Bible during their deliberations in a criminal case and, if so, under what circumstances? Must a civil lawsuit predicated on a ''state secret'' be dismissed? Does the spouse of a United States citizen remain eligible for an immigrant visa after the citizen dies? Must an employee who alleges that he was unlawfully discriminated against for claiming benefits or exercising other rights under an employer-sponsored healthcare or pension plan ''exhaust administrative remedies'' (that is, first allow the plan to address his claim) before filing suit in court? When does a collective bargaining agreement confer on retirees the right to lifetime healthcare benefits? May a federal court ''toll'' the statute of limitations in a suit brought against the federal government under the Federal Tort Claims Act if the plaintiff establishes that the government withheld information on which his claim is based? Is a defendant convicted of drug trafficking with a gun subject to additional prison time under a penalty-enhancing statute, or is his sentence limited to the period of time provided for in the federal drug-trafficking law? When may a federal agency withhold information in response to a FOIA request or court subpoena on the ground that it would disclose the agency's ''internal deliberations.'' Should a federal admiralty claim, to which a jury trial right does not attach, be tried to a jury if it is joined with a non-admiralty claim?

Two developments since I gave my last floor speech have served only to reinforce my conclusion that public scrutiny must be brought to bear on the Court.

The first is the Court's well-documented disregard of precedent, which the Court took to new levels during its 2008 Term. (E.g., Erwin Chemerinsky, ''Forward, Supreme Court Review,'' 43 Tulsa L. Rev. 627 (2008).) Consider three especially significant opinions handed down just this year: (1) 14 Penn Plaza, LLC v. Pyett, which held that an employee can be compelled to arbitrate a statutory discrimination claim under a collectively bargained-for arbitration clause to which he or she did not consent, contrary to the Court's thirty-five-year-old decision in Alexander v. Gardner-Denver Co., 415 U.S. 36 (1974) ; (2) Gross v. FBL Financial Services, Inc. (2009), which held that in age discrimination cases, unlike cases brought under Title VII of the Civil Rights Act of 1964, the employer never bears the burden of proof no matter how compelling a showing of discrimination the plaintiff makes, contrary to the Court's thirty-year-old decision in Price Waterhouse v. Hopkins, 490 U.S. 228 (1989); and (3) Ashcroft v. Iqbal, which gave license to district court judges to evaluate the ''plausibility'' of a complaint's allegations, contrary to well-established rules of pleadings that date back at least fifty years to Conley v. Gibson, 355 U.S. 41 (1957). Legislation to overturn each of these decisions is now pending.

Each of these examples reflects a second recent trend: the Court's bias in favor of corporate interests over the public interest. This has been the subject of extensive commentary. One commentator, Professor Jeffrey Rosen, has characterized the Court as ''Supreme Court, Inc.'' as a result of its decidedly pro-business rulings. (Jeffrey Rosen, ''Supreme Court, Inc.,'' The New York Times, Mar. 16, 2008.) Another, Professor Erwin Chemerinsky, has characterized the current Court as the ''most pro-business Court of any since the mid–1930's.'' (Chemerinsky, ''The Roberts Court at Age Three, 54 Wayne Law Review 947 (2008).)

A final point: While the Justices have so far refused to appear on television during open courtroom proceedings, they have not been shy about appearing on television outside the courtroom. Chief Justice Roberts and Stevens have appeared for interviews on ABC's ''Prime Time,'' Justice Ginsburg on CBS News, Justice Breyer on ''Fox News Sunday,'' and Justices Scalia and Thomas on CBS's ''60 Minutes.'' All of the Justices appeared for interviews that C-SPAN aired recently during its ''Supreme Court Week'' series. Justice Breyer and Auto even appeared on television to debate how the Court should interpret the Constitution and statutes. We cannot accept the Justices' plea for anonymity when they so regularly appear before the camera.

I note in conclusion that, since my last floor speech, the media has continued to call for the televising of the Supreme Court's proceedings. At least a dozen editorials have appeared during 2009 alone. (E.g., ''Televised justice would be for all,'' Boston Herald, August 7, 2009; ''Cameras in the court,'' USA Today, July 13, 2009; ''Camera shy justice: The Supreme Court should be televised,'' Pittsburgh Post Gazette, July 7, 2009; ''Supreme Court TV,'' Los Angeles Times, June 11, 2009.) One editorial writer, The National Law Journal's Tony Mauro, makes the case especially well, when he writes: ''The Internet Age demands transparency from all institutions all the time. Any government body that lags behind is in danger of losing legitimacy, relevance and, at the very least, public awareness. . . . It does not take a battery of surveys to realize that the public will learn and understand more about the Supreme Court . . . if its proceedings are on view nationwide.'' (''Court, cameras, action! Souter's departure could clear the way for far more transparency at the Supreme Court,'' USA Today, May 27, 2009.) A list of 2009 editorials, as compiled by C-SPAN, is appended.

Television coverage of the Supreme Court is long overdue. It is time for Congress to act. I urge my colleagues to support the resolution I am introducing today.

SENATE RESOLUTION 340—EXPRESSING SUPPORT FOR DESIGNATION OF A NATIONAL VETERANS HISTORY PROJECT WEEK TO ENCOURAGE PUBLIC PARTICIPATION IN A NATIONWIDE PROJECT THAT COLLECTS AND PRESERVES THE STORIES OF THE MEN AND WOMEN WHO SERVED OUR NATION IN TIMES OF WAR AND CONFLICT

Mr. CRAPO (for himself and Mrs. LINCOLN) submitted the following resolution; which was referred to the Committee on Veterans' Affairs:

S. RES. 340

Whereas the Veterans History Project was established by a unanimous vote of the United States Congress to collect and preserve the wartime stories of American veterans;

Whereas Congress charged the American Folklife Center at the Library of Congress to undertake the Veterans History Project and to engage the public in the creation of a collection of oral histories that would be a lasting tribute to individual veterans and an abundant resource for scholars;

Whereas there are 17,000,000 wartime veterans in America whose stories can educate people of all ages about important moments and events in the history of the United States and the world and provide instructive narratives that illuminate the meanings of ''service'', ''sacrifice'', ''citizenship'', and ''democracy'';

Whereas the Veterans History Project relies on a corps of volunteer interviewers, partner organizations, and an array of civic minded institutions nationwide who interview veterans according to the guidelines it provides;

Whereas increasing public participation in the Veterans History Project will increase the number of oral histories that can be collected and preserved and increase the number of veterans it so honors; and

Whereas ''National Veterans Awareness Week'' commendably preceded this resolution in the years 2005 and 2006: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes ''National Veterans Awareness Week'';

(2) supports the designation of a ''National Veterans History Project Week'';

(3) calls on the people of the United States to interview at least one veteran in their families or communities according to guidelines provided by the Veterans History Project; and

(4) encourages local, State, and national organizations, along with Federal, State, city, and county governmental institutions, to participate in support of the effort to document, preserve, and honor the service of American wartime veterans.

SENATE RESOLUTION 341—SUPPORTING PEACE, SECURITY, AND INNOCENT CIVILIANS AFFECTED BY CONFLICT IN YEMEN

Mr. CARDIN (for himself and Mr. LUGAR) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 341

Whereas the people and government of Yemen currently face tremendous security challenges, including the presence of a substantial number of al Qaeda militants, a rebellion in the northern part of the country,